

12. DOE CREDIBILITY

12 (14)

Comment - 11 comments summarized

Commenters stated that DOE is biased toward the nuclear industry and needs an industry success. Thus, the Draft EIS reads as though lobbyists wrote it. Politicians have restricted DOE personnel's freedom to analyze, and DOE should tell Congress that they have made a mistake. Commenters see a conflict of interest in that approval of the repository would allow DOE to dispose of wastes from its own sites, and question the independence of personnel involved in the evaluation process.

Response

The following provisions of the process for evaluating the proposed site at Yucca Mountain provide a strong guarantee of the integrity of the process and the independence and sufficiency of the EIS.

Congress determined through the passage of the Nuclear Waste Policy Act of 1982 that the Federal Government has responsibility to dispose of spent nuclear fuel and high-level radioactive waste, and that primary responsibility for implementing permanent disposal should rest with the Department of Energy. DOE and its predecessor agencies have had general responsibility for governmental programs involving nuclear materials. DOE actions are taken pursuant to the Nuclear Waste Policy Act of 1982 and, thus, are not done to favor any particular industry or group.

As discussed in EIS Section 1.3, the Nuclear Waste Policy Act, as amended (this EIS refers to the amended act as the NWPA) established a process that locates decisionmaking responsibility for the proposed repository outside DOE and makes DOE more accountable for its actions. Decisionmaking power over the proposal rests first with the President, then with the Governor or Legislature of the State of Nevada, potentially Congress (assuming the President decides to approve and there is a notice of disapproval from the Governor or the legislature of Nevada), and ultimately with the Nuclear Regulatory Commission. DOE could construct, operate and monitor, and eventually close a repository only in accordance with licensing and continuing regulation by the Nuclear Regulatory Commission and under standards developed by the Environmental Protection Agency to protect the public from releases from radioactive material.

The Nuclear Waste Policy Act of 1982 also established an independent review body, the Nuclear Waste Technical Review Board (see Section 1.3.2.1 of the EIS). The Nuclear Waste Technical Review Board consists of scientists and engineers with distinguished careers in disciplines within the range appropriate for the repository proposal, and who are independent of DOE. The Nuclear Waste Technical Review Board has power to investigate DOE's activities with regard to the repository, determine the technical and scientific validity of DOE's activities, and issue independent reports stating their conclusions to Congress and to the Secretary of Energy.

The EIS process for the proposed Yucca Mountain Repository has been structured to provide detached input to the EIS and public scrutiny of the EIS results. In addition, DOE retained a contractor not involved previously in the Yucca Mountain Project to assist in preparing the EIS and, thus, offer a means to evaluate independently the available information from the site characterization program, design information, and information and opinions offered by the public, state and local government, and Native American tribes. Public hearings and public review of the Draft EIS and the Supplement to the Draft EIS provided interested parties with the opportunity to examine the assumptions, analyses, and conclusions in those draft documents, as well as the opportunity to provide input on how these issues and other concerns should be addressed in the Final EIS.

Under the Nuclear Waste Policy Act of 1982 or any other law, DOE has no independent power to approve a site or to build and operate a repository at Yucca Mountain. The NWPA established a time sequence that places all approval and licensing decisions in the future and ensures that the EIS would be completed before any such decisions could be made. No decisions on matters within the scope of this EIS have been made.

If DOE determined that the Yucca Mountain site was not suitable, the NWPA empowers the Secretary of Energy to stop the site evaluation, order restoration of the site, and report to Congress on other recommended approaches for disposal of the materials (see Chapter 7 of the EIS for more details). In other words, the Secretary of Energy and DOE cannot approve the site but can reject it.

DOE believes that this EIS was prepared using the best available data and methods of analysis. Consistent with National Environmental Policy Act and the NWSA, DOE has prepared the EIS to provide a site-specific assessment of the Proposed Action.

12 (139)

Comment - 111 comments summarized

Commenters indicated that it is difficult to trust the people (that is, DOE) who created the situation (radioactive waste contamination) and who now propose scenarios for cleaning it up. They further stated that even if DOE had sound plans, the plans would not work and DOE would not be accountable for its actions (for example, conduct a satisfactory performance confirmation program).

Commenters expressed a general lack of trust in DOE and its contractors based on past mistakes and flaws in various programs. Commenters accused DOE of secrecy, misinformation, lack of reliable documentation and recordkeeping, performance of nuclear experiments on humans, dishonesty, and lack of ethics or regard for human health and the environment. Commenters alleged that DOE has not been responsive to public concerns and has usurped the rights of the people. Commenters expressed the opinion that DOE has not shown recent or historic concern for or interest in the public, future generations, workers, or the environment. Commenters cited both specific and general adverse impacts from past DOE programs and operations, and charged that DOE has demonstrated general abuse of responsibility.

Response

For more than 50 years, the U.S. Government and various commercial organizations have engaged in nuclear activities for defense, power generation, and related purposes. These activities have resulted in the production of spent nuclear fuel and high-level radioactive waste, which are long-lived, highly radioactive materials. Management and disposition of these materials in a manner that ensures that the materials do not adversely affect the public health and safety and the environment for this or future generations poses challenging long-term problems.

DOE and its predecessor agencies have had general responsibility for Federal programs involving nuclear materials. Although many of these programs were in the national interest, their legacy materials must be isolated and monitored in the interest of public safety.

DOE is aware of public criticisms of its operations, both ongoing and historic, and is working to rectify and eliminate adverse environmental impacts from past programs, and to ensure that it conducts its current activities without environmental insult. DOE continues to incorporate lessons learned from past waste management practices and the knowledge gained from research and development in new management programs.

DOE is committed to protecting the safety and health of its workers, the public, and the environment. Policy and conduct of operations emphasize safety and environmental considerations above other goals. In fact, DOE has established performance monitoring and site stewardship programs that accomplish multiple goals related to the Department's obligation to protect public health and safety and the environment. Furthermore, DOE intends to design, construct, and operate facilities in a safe manner, relying on lessons learned from the last 40 years of spent nuclear fuel management. In addition, DOE is evolving toward greater openness, as demonstrated by recent releases of information regarding past programs and practices, such as those associated with worker exposures to hazardous and radioactive materials.

Several aspects of the overall process created by the NWSA have had the effect of locating decisionmaking responsibility for the proposed repository outside DOE. Decisionmaking power over the proposal rests (in hierarchical order) with the President, the Governor or Legislature of the State of Nevada, potentially Congress (assuming a notice of disapproval from the Governor or the Legislature of Nevada), and ultimately with the Nuclear Regulatory Commission as the licensing authority. While DOE would construct, operate and monitor, and eventually close a repository, it could do so only in accordance with licensing and continuing regulation by the Nuclear Regulatory Commission and under standards developed by the Environmental Protection Agency. DOE would be held accountable for its actions in the construction and operation of a repository.

The NWSA establishes an independent review body, the Nuclear Waste Technical Review Board (see Section 1.3.2.1 of the EIS). The Board consists of distinguished scientists and engineers with expertise in the

disciplines required to ensure safe operation of the proposed repository. As an authority independent of DOE, the Board has power to investigate DOE activities regarding the repository, determine the technical and scientific validity of DOE activities, and issue independent reports and conclusions to Congress and the Secretary of Energy. The Board has consistently shown confidence in, and respect for, the opponents of the project and provided a forum for opponents to voice their views and have DOE address them.

In response to the lack of trust expressed by some members of the public, the Secretary of Energy places great emphasis on openness and public involvement. It is DOE policy that the business of the Department must be open to the full view of those whom it serves, consistent with applicable laws, regulations, and contracts. This policy challenges the Department and its contractors to perform to a new standard of openness and service. DOE will incorporate public input in its decisions when appropriate and feasible, and will provide feedback to the public on its reasoning.

For example, the EIS process for the proposed Yucca Mountain Repository has been structured to provide input to the EIS and public scrutiny of the EIS results. Public hearings and public review of the Draft EIS and the Supplement to the Draft EIS by public stakeholders, agencies, Tribal Nations, and others during the comment periods comprise an important part of the process. The review periods provided interested parties the opportunity to examine the assumptions, analyses, and conclusions in the EIS draft and the Supplement and the opportunity to provide input on how DOE should address these issues and other concerns in the Final EIS. This process improves the quality of the EIS and is crucial to the decisionmaking process.

DOE provided the public, agencies, Tribal Nations, and others with the Draft EIS, Supplement to the Draft EIS, and supporting documents and data. During the public comment periods, the Department made these documents available in its reading rooms and other public locations throughout the country. Information on the availability of the references cited in the Final EIS can be found in the DOE Reading Rooms listed in Appendix D or on the Internet at the Yucca Mountain Project web site at <http://www.ympp.gov>.

Commenters had the opportunity to send written comments, make oral comments, and submit facsimile comments over a toll-free telephone line, and to attend one or more public hearings in locations across the United States. DOE has considered all issues raised during the public comment periods.

12 (1399)

Comment - EIS000294 / 0005

The assumptions that are in this EIS are completely cooked, they're completely massaged. And even then, the doses that are pictured in this EIS exceed every possible radiation limit.

Response

DOE did not write the EIS or base its analyses on a manipulation of information, data, and assumptions. DOE prepared this assessment of the potential environmental impacts associated with the Proposed Action and the No-Action Alternative in accordance with the National Environmental Policy Act, the Council on Environmental Quality and Departmental implementing regulations, and various guidance. Further, the Department has provided the EIS and its supporting information, data, and analyses to the public for review. The health and safety analyses described in Chapters 4 and 5 indicate that the impacts of the Proposed Action would be within applicable standards and limits.

12 (1614)

Comment - EIS000104 / 0002

[A DOE contractor] just finally admitted that they used this dry cask scenario that everybody's been talking about to build it out of six-inch thick stainless steel, and they finally admitted that it cracked open. The reason they admitted it cracked open was because when they very foolishly tried to bolt it shut, the thing exploded. It had hydrogen gas in there. When I talked to the [contractor] people and I said, "Hey, what is this? You guys are supposed to be the technical experts on this job," and what they said was, "well, we can't be a technical expert because DOE doesn't have anybody that can understand what we're doing, and so every time we try to do something, we get an argument, so we just give up and take the paycheck and go." That's a fatal flaw through this whole project and that needs to be in the EIS. I got a similar answer from [another contractor]...Another example of the problems that we have is this cask that split open violates the Nelson limits. The Nelson limits -- I've asked for months from the DOE and Yucca

Mountain to tell me what they are, and they can't find it. NRC doesn't have anybody that can find them. The National Academy of Science doesn't have anybody that can find them, and this kind of thing needs to be addressed in the EIS that we have fatal flaws in the -- in the whole system and under the NEPA laws, that's required to be in there up front for the public. The people that use the Nelson limits that by the way predicted this cask would crack in two to six months, so they failed their -- either they covered it up for the last four and a half years or the Nelson limits failed. The thing supposedly lasted five years before it split open. The people that know about these Nelson limits are industrial engineers, chemical engineers, mechanical engineers, people that work in industry, and that's only about a third of the engineers in the country. Two-thirds work for the government and for government contractors, so you won't find anybody in your contractors, you won't find anybody in the government that even knows what I'm talking about. That's a fatal flaw in this whole process, and it violates the NEPA laws because anything other than having somebody who knows what they're doing is pure speculation, and that also needs to be mentioned in the EIS.

Response

DOE is unsure what this comment meant by the "Nelson limits," although it appears that the issue may reflect a general concern regarding casks rather than a specific critique of EIS information. DOE believes (1) that the EIS information regarding casks is accurate and (2) that casks used in connection with the proposed action would both meet applicable standards and be protective of public health and safety.

12 (7259)

Comment - EIS001832 / 0006

In a traditional DEIS that compares a number of alternatives to a proposed action, as long as each category of impacts is characterized in common terminology, the reader is given a relative yardstick by which to evaluate alternatives against one another. However, this DEIS is not, and can not, be a comparison of multiple alternatives. This DEIS is unique in evaluating, as mandated by Congress, the environmental impacts of the building and operating a repository at Yucca Mountain and the impacts of not taking that action. Accordingly, DOE should provide some measure of comparison of the environmental impacts in order that the postulated impacts can be better understood as they relate to the decision-making process.

We recommend that DOE facilitate the synthesis of results by using common terminology to depict each of the 13 categories of impact (i.e. low - moderate -high; 0 to 10 with 10 being most severe; or some other method). This scale should be defined in commonly understood terms. Examples should be provided of things that regularly occur in our world and where they fit onto each segment of the scale. For radiological risks, DOE should provide comparisons to both other radiological and nonradiological risks. Care should be taken to include facilities and activities that have common characteristics with Yucca Mountain wherever possible (i.e., where there is a broad societal need for action to be taken). Secondly, having applied a common scale to all impacts, DOE should then summarize the results in a manner that places Yucca Mountain risks in perspective.

Response

DOE believes that the discussion of impacts is forthright and informative, both for the public and for decisionmakers.

The EIS quantifies impacts on environmental resources to the extent practicable. These impacts are then compared to relevant regulatory standards as appropriate to provide perspective on the significance of the impact. For example, for radiological impacts, the EIS presents information in terms of a dose to the maximally exposed individual and to populations. These numbers are then compared to the relevant standard. The EIS also presents expected health consequences from dose rates. To aid understanding, Appendix F of the EIS provides a human health impacts primer with more analytical details.

While the use of a numeric scale such as suggested by the commenter could have some utility, it also creates a potential for confusion. Different readers might attach different importance to impacts in certain areas. The use of a common scale in different disciplines could result in adding totals for impacts in different areas, although a 3 in aesthetic impacts might not have equal weight with a 3 in human health impacts.

12 (7276)

Comment - EIS001106 / 0018

Ethics and principles: The YMP DEIS is indifferent to the principles of environmental and moral ethics expressed in the National Environmental Policy Act. Also lacking is a unifying environmental goal and a strategy for the DOE to achieve it for the YMP. A commitment on the part of the DOE is needed to assure the protection of environmental quality and the achievement of moral and civil ethical principles. This includes openness and informing all of the stakeholders in the YMP and related regional activities about the full nature of costs and benefits of the Yucca Mountain Program.

Response

While the NWPAs can be the basis for establishing goals and overall strategy, the EIS provides a comprehensive assessment of environmental issues and addresses the potential mitigation of unavoidable impacts, factors in the views of Native Americans, and is sensitive to the concerns raised by the public through numerous comments and opposing viewpoints.

A major emphasis of the EIS process is to promote public awareness of the proposed actions and provide opportunities for public involvement. The actions that DOE has taken to facilitate and encourage public participation in the EIS process are described in Section 1.5.1 of the EIS. DOE's proposal to construct and operate a geologic repository at Yucca Mountain for the disposal of commercially generated spent nuclear fuel and DOE spent nuclear fuel and high-level radioactive waste is consistent with the NWPAs.

From early in the Yucca Mountain Project, the Nuclear Waste Technical Review Board has performed independent reviews of the project, as mandated by the Nuclear Waste Policy of 1982. The Board has consistently provided a powerful forum for stakeholders to express and to have DOE address their views. The public comment period for the Draft EIS was extended beyond that required by DOE's National Environmental Policy Act implementing regulations to allow stakeholders sufficient time for independent review.

DOE's objectives are transparent and are clearly stated at the beginning of the EIS. Congress has identified in the NWPAs a national need to deal with the problems associated with spent nuclear fuel and high-level radioactive waste. Congress has identified a potential solution, disposal of these materials at Yucca Mountain in the NWPAs. Congress has established DOE's objectives: to evaluate the suitability of the site, to prepare a recommendation for the President, and to prepare an EIS to accompany the recommendation.

12 (7283)

Comment - EIS001106 / 0019

The intent of the NEPA [National Environmental Policy Act] process is that unbiased environmental documents be prepared before a proposed action is tailored. Because of the legislative nature of the Yucca Mountain Project and its exposure to powerful external and internal interests, this intent of NEPA has not been possible. In particular, the DOE has violated the ethical principle of avoiding biases in the conduct of EIA [Environmental Impact Assessment] for the YMP. To avoid these faults the YMP DEIS should adopt both life cycle EIA and regional strategic EIA on a regional basis.

Response

DOE disagrees with the comment's supposition that its National Environmental Policy Act (NEPA) evaluation of the proposed repository at Yucca Mountain is biased. DOE estimated the long-term costs of the repository and did so consistent with the long-term strategic goals established by the NWPAs. DOE has attempted to avoid bias by considering views that are inconsistent with its own, and by discussing the use of incomplete and unavailable information – the uncertainties in the analyses. For example, in Section 2.5 of the EIS, DOE acknowledges the receipt of input from a number of organizations that in some cases departs from its own interpretations. DOE reviewed this input and evaluated findings for inclusion in the EIS. If the information represented a substantive view, DOE made efforts to incorporate that view in the EIS and identify its sources. If DOE did not incorporate the information, it attempted to identify and address the opposing view. Nevertheless, DOE provisions of the process for evaluating the Yucca Mountain site provide a strong guarantee of the integrity of the process and the independence and sufficiency of the EIS.

Furthermore, the Nuclear Waste Policy Act of 1982 established an independent review body, the Nuclear Waste Technical Review Board, which consists of scientists and engineers with distinguished careers in disciplines appropriate for the repository proposal. The Board investigates DOE activities, determines their technical and scientific validity, and issues independent reports stating their conclusions to Congress and to the Secretary of Energy.

Decisionmaking for the project rests in the future, first with the President, and then with the Governor and Legislature of Nevada and with Congress. The Nuclear Regulatory Commission would have to issue a construction authorization before DOE could proceed. DOE does not have independent authority under the Nuclear Waste Policy Act or any other law to approve a site, or to build and operate a repository for spent nuclear fuel and high-level radioactive waste. Therefore, if the repository was approved and licensed, DOE would construct and operate it, but only in accordance with a license issued by the Nuclear Regulatory Commission and under standards developed by the Environmental Protection Agency.

12 (8838)

Comment - EIS000216 / 0009

We believe that we can rely on the expertise of DOE to provide the details of the repository design, the Nuclear Waste Technical Review Board to provide impartial oversight of the program, and the Nuclear Regulatory Commission to protect the public health and safety.

Response

Thank you for your comment.

12 (10354)

Comment - EIS001371 / 0002

There is an irony in the Department of Energy's (DOE) promotion of the transport of high level radioactive waste on trains and trucks to the western United States in the 1990's when they officially discouraged transport of the low level radioactive waste at DOE's Weldon Spring Sites Remedial Action Project in St. Charles County in the 1980's. When the citizens' organization pressed for removal of the Weldon Spring radioactive wastes DOE officials told the citizens "it would be a greater risk to the St. Charles County communities and others all along the route to wherever it would be taken by train or truck transport." They say it would be far safer to keep it where it was already located.

Response

DOE is following its mandates under the NWPAA and is only evaluating transportation of waste to the proposed repository at Yucca Mountain. The NWPAA establishes a process leading to a decision by the Secretary of Energy on whether to recommend that the President approve Yucca Mountain for development as a geologic repository. In the Act, Congress recognized the permanent disposal of spent nuclear fuel and high-level radioactive waste as a national problem. Congress focused national efforts on deep geologic disposal and directed DOE to evaluate whether Yucca Mountain is a suitable candidate site for a repository. The EIS analyzes the potential impacts of transporting spent nuclear fuel and high-level radioactive waste to the repository.

12 (10489)

Comment - EIS002138 / 0004

This DEIS lists the materials, table A-8, volume 2, page A-17 to be stored. They are careful on this table not to list the half-life of the elements. This is an example how DOE presents a report which on the surface the general public receives a feeling that it must be good. Look how thick it is. DOE is very careful not to blatantly lie, but they come very close. I guess in a legal sense, DOE is puffing.

Response

The half-lives of the elements are presented in Table A-8 of the Final EIS. In Section 5.1 of the EIS, DOE acknowledges that there are more than 200 radionuclides in the waste inventory that it could dispose of at Yucca Mountain. However, to perform impact calculations efficiently, the EIS evaluated a reduced number of radionuclides as explained in Appendix I. The EIS analysis of long-term performance focused on the nine radionuclides that would contribute most to total radiological dose, as calculated in the performance assessment models. Table 5-2 lists the average radionuclide inventory per waste package for the performance assessment calculations together with their half-lives.

The Nuclear Waste Policy Act of 1982 established an independent review body, the Nuclear Waste Technical Review Board, which consists of scientists and engineers with distinguished careers in disciplines appropriate for the repository proposal. The Board investigates DOE activities, determines their technical and scientific validity, and issues independent reports stating their conclusions to Congress and to the Secretary of Energy.

12 (10754)

Comment - EIS002145 / 0001

I believe everybody here, whether they're pro or con, should read this article. It's very interesting. I believe that -- and I've heard a lot of people say DOE is full of liars. Well, both sides have their share of liars, the pro and the con.

Response

Thank you for your comment.

12 (11184)

Comment - EIS000249 / 0003

And as I look at Yucca Mountain and the moving target as it were of what its mission is, and how it is going to accomplish it, and I look at the people who are going to receive this waste, and the parties that are engaged in this process, I am beginning to have the feeling that we are having a much bigger Pit Nine rolling down the tracks.

Response

DOE acknowledges the commenter's views. While there is no doubting the scale and complexity of the proposed Yucca Mountain Repository, there is no basis for a comparison with the low-level waste disposal problems of Pit Nine at the Idaho National Engineering and Environmental Laboratory. The disposal strategies and waste forms are entirely different. The disposal procedure for a repository at Yucca Mountain and the nature of the waste inventory are stated in Section 2.1 and Appendix A, respectively, of the EIS. Appendix A reflects DOE's best estimates of the volumes and characteristics of all wastes that would be transported to the repository, as well as details on the sources of the material, present storage conditions, and final disposal forms.

12 (12102)

Comment - EIS001887 / 0402

Actions proposed and taken by the U.S. government often are contrary to the aims and intent of NEPA [National Environmental Policy Act]. Among the reasons is the indifference of civil servants and agency bureaucrats to matters of ethics and principles. Another reason is ignorance of the environment, the concepts of sustainability and ecosystem management, and the pervasiveness of pollution. Most important is the lack in some federal agencies of unifying goals and strategies for perceiving, pursuing, and realizing NEPA's principles and long-range purposes. The bureaucrats within federal agencies need to be seriously and effectively committed to assuring that high qualities for the environment and for productive and healthful personal and civic life are achieved and sustained. This includes a responsibility to inform the public and interest groups of what is at stake and how adverse environmental consequences can be averted over time. Above all, it means that government agencies and bureaucrats need to be honest with the public about the true nature and ultimate balance of costs and benefits from proposed actions.

Response

NEPA does not prohibit activities that harm the environment; rather, it requires Federal agencies to disclose the extent of such environmental harm, and environmental benefits, to the public and to agency decisionmakers. Consistent with NEPA, DOE has done so in its presentation of potential environmental impacts in the EIS, and through the public comment process.

The EIS process has been structured to provide detached input to the EIS and public scrutiny of the EIS results. An independent contractor was selected to assist DOE in preparing this EIS. Several independent assessments of the EIS have been performed to validate its results. Public hearings and public review of the Draft EIS and the Supplement of the Draft EIS provided interested parties including opponents and proponents of the Proposed Action with the opportunity to examine the assumptions, analyses, and conclusions in these documents and the opportunity to provide input on how these issues and other concerns should be addressed in the Final EIS.

DOE believes that it has assembled a well-trained, ethical, and independent team of experts to prepare the EIS. Chapter 13 lists preparers and their expertise.

DOE's objectives are transparent and are clearly stated at the outset of the EIS. Congress has identified in the NWSA a national need to deal with the problems associated with spent nuclear fuel and high-level radioactive waste. Congress has also identified a potential solution, disposal of these materials at Yucca Mountain. Congress has established DOE's objectives: to evaluate the suitability of the site, to prepare a recommendation for the President, and to prepare an EIS to accompany the recommendation.

12 (12103)

Comment - EIS001887 / 0403

The procedural requirements of NEPA [National Environmental Policy Act] are meant to force attention to the Act's purpose of producing environmental documents for the NEPA process through application of the discipline of EIA [Environmental Impact Assessment]. Thus, EIA is to be conducted by federal agencies before strategic decisions about a project have been made and not simply tailored to fit the project once a decision has been made to proceed with the action. In this context, NEPA is better served if environmental documentation is based on life-cycle EIA. This approach addresses a project's full life cycle from cradle to grave, including the fate of all pollutants and residuals and the full social, economic, and resource implications. NEPA also is better served when EIA is conducted in a strategic format that coordinates similar actions over time in a regional context. The intent of the NEPA process is that unbiased environmental documents be prepared before a proposed action is tailored. The information and insights resulting from the EIA process is meant to be integrated into the final design and implementation of the action. Because of the legislative nature of the YMP [Yucca Mountain Project] and its exposure to powerful external and internal interests, this intent of NEPA has not been possible. In particular, DOE has violated the ethical principle of avoiding biases in the conduct of EIA for the YMP. To avoid these faults, the YMP DEIS should adopt both life cycle EIA and strategic EIA on a regional basis.

Response

From this comment, DOE assumes that a "cradle-to-grave" approach would require consideration and analysis of the entire nuclear waste cycle, from production of nuclear fuel and associated waste to its ultimate disposal as spent nuclear fuel and high-level radioactive waste. The National Environmental Policy Act and implementing regulations require an EIS to evaluate the direct and indirect impacts of an agency's proposal and alternatives to that proposal, as well as impacts from connected or similar actions. In the context of the Proposed Action to construct, operate and monitor, and eventually close a repository at Yucca Mountain, analyses related to the production of nuclear fuel are not connected to a decision on the development of a repository or related to the implementation of such an action. Furthermore, other DOE EISs have addressed portions of the nuclear fuel cycle on a programmatic or project-specific basis.

As suggested by this comment, Chapter 8 of the EIS considers the potential for cumulative impacts in the region. The analysis considered past, present and reasonably foreseeable future activities that could occur in the same time and geographic vicinity as the Proposed Action.

DOE disagrees with the comment's supposition that DOE wrote the EIS to support previously made decisions. Decisionmaking for the project rests in the future, first with the President, and then with the Governor and Legislature of Nevada and Congress. The Nuclear Regulatory Commission would need to issue a construction authorization before DOE could proceed. DOE does not have independent authority under the Nuclear Waste Policy Act or any other law to approve a site, or to build and operate a repository for spent nuclear fuel and high-level radioactive waste. Therefore, if the repository was approved and licensed, DOE would construct and operate it, but only in accordance with a license issued by the Nuclear Regulatory Commission and under standards developed by the Environmental Protection Agency.

DOE has attempted to avoid bias by considering views that are inconsistent with its own, and by discussing the use of incomplete and unavailable information – the uncertainties in the analyses. For example, in Section 2.5 of the EIS, DOE acknowledges the receipt of input from a number of organizations that in some cases departs from its own interpretations. DOE reviewed this input and evaluated findings for inclusion in the EIS. If the information represented a substantive view, DOE made efforts to incorporate that view in the EIS and identify its sources. If the information was not incorporated in the analyses, DOE attempted to identify and address the opposing view.

Nevertheless, provisions of the process for evaluating the Yucca Mountain site provide a strong guarantee of the integrity of the process and the independence and sufficiency of the EIS.

Furthermore, the Nuclear Waste Policy Act of 1982 established an independent review body, the Nuclear Waste Technical Review Board, which consists of scientists and engineers with distinguished careers in disciplines appropriate for the repository proposal, and who are independent of DOE. The Board investigates DOE activities, determines their technical and scientific validity, and issues independent reports stating their conclusions to Congress and to the Secretary of Energy.

12 (12104)

Comment - EIS001887 / 0404

NEPA [National Environmental Policy Act] is meant to further environmental values and ethics present in our society that are supported by a majority of citizens. The values reflect concern about long-term physical environmental quality and the quality of the human environment in the face of material growth. Under NEPA, the process of EIA [Environmental Impact Assessment] also is meant to enhance the congruence of future actions with broad environmental goals that protect the environment for future generations. This means providing assurance of the widest range of beneficial uses of the environment without degradation, risk to health, and other undesirable consequences. A particular loser in the NEPA process for the YMP [Yucca Mountain Project] has been long-term quality of the human environment regarding future generations. The DEIS in particular condones sacrificing the Yucca Mountain region for the future. The inherent biases of those responsible for the DEIS weigh heavy on the project because independent outside review of the EIA process was limited. Those opposed to the YMP were viewed by DOE with a lack of confidence when the opposite situation was in fact the case. This also was true of the contractors who executed EIA for the YMP and compromised their ethics and objectivity on behalf of DOE.

To achieve good EIA as intended by NEPA, expertise must be assembled and allowed by agency bureaucrats to remain involved throughout the entire process and to participate as part of an interdisciplinary team. An agency's legal staff also should be part of the team and should be involved from start to finish with the NEPA process. Strategies and tactics taken by one component of the team must be understood and agreed to by the entire team. Participants must be educated in the substantive purposes of NEPA as well as in the procedural ones, and they must be trained properly to write satisfactory impact statements that all stakeholder groups can understand. Above all else, a good sense of professional ethics must be practiced by all participants in the EIA process. As a whole, DOE has a poor record regarding environmental ethics, an indifference to environmental quality, and lacks openness to the public. The YMP is being conducted in this characteristic manner, where civil servants and bureaucrats ignore the higher precept of NEPA and environmental ethics. The DEIS includes no sense of unifying goals and strategies for achieving national environmental policy and informing and educating people about DOE's objectives which remain hidden and unopen.

Response

The analysis in Chapter 5 of the EIS concludes that the Proposed Action would not prove detrimental to long-term environmental quality and that regional productivity and viability would not be affected.

DOE does not agree with contentions that it is biased. Nevertheless, DOE notes that provisions of the process for evaluating the Yucca Mountain site provide a strong guarantee of the integrity of the process and the independence and sufficiency of the EIS.

The Nuclear Waste Policy Act of 1982 established an independent review body, the Nuclear Waste Technical Review Board. The Board consists of scientists and engineers with distinguished careers in disciplines within the range appropriate for the repository proposal, and who are who are independent of DOE. The Board has power to investigate DOE activities in regard to the repository, determine the technical and scientific validity of DOE activities, and to issue independent reports stating their conclusions to Congress and to the Secretary of Energy.

The EIS process has been structured to provide detached input to the EIS and public scrutiny of the EIS results. An independent contractor was selected to assist DOE in preparing this EIS. Several independent assessments of the EIS have been performed to validate its results. Public hearings and public review of the Draft EIS and the Supplement to the Draft EIS provided interested parties including opponents and proponents of the Proposed Action

with the opportunity to examine the assumptions, analyses, and conclusions in these documents and the opportunity to provide input on how these issues and other concerns should be addressed in the Final EIS.

If DOE determined that the Yucca Mountain site was not suitable, the NWPA empowers the Secretary of Energy to stop the site evaluation, order restoration of the site, and report to Congress on other recommended approaches for disposal of the materials. In other words, the Secretary of Energy and DOE cannot approve the site but can reject it.

DOE believes that it has assembled a well-trained, ethical, and independent team of experts to prepare the EIS. Chapter 13 lists preparers and their expertise.

DOE's objectives are transparent and are clearly stated at the outset of the EIS. Congress has identified in the NWPA a national need to deal with the problems associated with spent nuclear fuel and high-level radioactive waste. Congress has also identified a potential solution, disposal of these materials at Yucca Mountain. Congress has established DOE's objectives: To evaluate the suitability of the site, to prepare a recommendation for the President, and to prepare an EIS to accompany the recommendation.